



**Gwola v Republic (Criminal Appeal E001 of 2023)
[2023] KEHC 18672 (KLR) (16 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18672 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL APPEAL E001 OF 2023**

**A. ONG'INJO, J
JUNE 16, 2023**

BETWEEN

KELVIN GWOLA APPELLANT

AND

REPUBLIC RESPONDENT

RULING

Application

1. The Notice of Motion application dated March 30, 2023 was brought under Section 356 (1) and 357 (1) of the *Criminal Procedure Code* seeking for orders that the Honourable Court be pleased to admit the appellant to bail/bond pending the hearing and determination of the appeal.
2. The application is premised on grounds that the appellant has filed an appeal against his conviction and sentence and if the appeal is successful the appellant would have served a good portion of the sentence and subsequent reversal of the decision sought to be appealed will not undo the damage he will have suffered as a result of his incarceration.
3. The application is supported by an affidavit sworn on March 30, 2023 by Lawrence Obonyo Omondi, the advocate having the conduct of the matter on behalf of the appellant with such other grounds.
4. It is pleaded that the appeal raises substantial legal issues with overwhelming likelihood of success. That by the time the appeal is heard and determined the appellant will have served a good portion of the sentence and subsequent reversal of the decision sought to be appealed will not undo the damage he will have suffered as a result of his incarceration. The appellant stated that he was on bond during trial and did not abscond court and that he is a family man hence the sole breadwinner and caregiver of his family. He also stated that the appellant is ready and willing to abide by any terms as to security that the court may impose as a precondition for his release on bail/bond pending appeal.



5. The application was served upon the Respondent but Mr Ngiri for the Respondent did not file a response. On May 18, 2023 when the matter came up for hearing, Mr Ngiri said he did not oppose the grant of bail pending appeal.
6. In consideration to the fact that the Respondent's counsel has conceded to the application, this court hereby grants to the appellant bond of Kshs. 50,000 with surety of a similar amount on condition that he attends court and prosecutes his appeal within a reasonable period of time but not later than 6 months from the date hereof.
7. Mention on July 31, 2023 to confirm that records of appeal have been filed and served upon the Respondent by the appellant for directions.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 16TH DAY OF JUNE 2023**

HON. LADY JUSTICE A. ONG'INJO
JUDGE

In the presence of: -

Ogwel- Court Assistant

Mr Ngiri for Respondent

Mr Obonyo Advocate for appellant

Appellant present in person

HON. LADY JUSTICE A. ONG'INJO
JUDGE

